

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:10-cv-00257-MR-DLH**

STELLA ANDREWS, individually)	
and on behalf of similarly situated)	
persons,)	
)	
Plaintiff,)	
)	
vs.)	<u>O R D E R</u>
)	
)	
AMERICA'S LIVING CENTERS, LLC,)	
et al.,)	
)	
Defendants.)	
)	

THIS MATTER is before the Court *sua sponte*.

I. PROCEDURAL BACKGROUND

The Plaintiff first filed suit against the Defendants on June 4, 2010, asserting claims under the Fair Labor Standards Act (“FLSA”). [Civil Case No. 1:10-cv-00114-MR, Doc. 1]. On July 29, 2010, the Defendants, who were then represented by counsel, moved to dismiss the Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6). [*Id.*; Doc. 15]. Before the motion to dismiss was ruled on, the Plaintiff decided to voluntarily withdraw her complaint pursuant to Federal Rule of Civil Procedure 41(a)(1) and

immediately filed the present action. [Doc. 1]. The Defendants moved to stay this action pending the Plaintiff's payment of costs pursuant Federal Rule of Civil Procedure 41(d). [Doc. 26]. The Court granted the Defendants' motion and ordered the Plaintiff to pay an award of attorneys' fees and other expenses that had been incurred by the Defendants in defending the first action. [Docs. 30, 36].

The Plaintiff appealed to the Court of Appeals in 2011. That appeal was dismissed because the amount of the award had yet to be determined. [Doc. 41]. On remand, this Court awarded \$13,403.75 in attorneys' fees to the Defendants and stayed the case pending payment. [Doc. 50]. The Plaintiff appealed without paying the costs and before the case was dismissed for nonpayment. [Doc. 51]. After oral argument, the Court of Appeals granted the Plaintiff's motion for voluntary dismissal and dismissed the appeal. [Doc. 57]. After the case was remanded, counsel for the Defendants moved to withdraw, which motion was granted on May 22, 2015. [Docs. 61, 62].

On June 10, 2015, this Court dismissed this action for failure to pay the awarded attorneys' fees. [Doc. 63]. The Plaintiff then appealed for a third time. On June 28, 2016, the Court of Appeals vacated the award of

attorneys' fees and remanded the case for further proceedings. [Doc. 69].

The Court of Appeals' mandate issued on July 20, 2016. [Doc. 70].

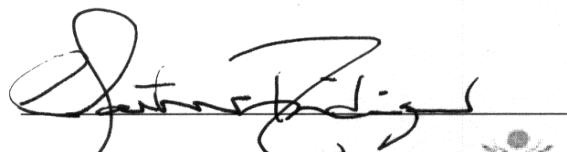
II. DISCUSSION

Since the last remand of this matter in June 2016, none of the Defendants has filed an answer to the Plaintiff's Complaint, and the Plaintiff appears to have made no effort to prosecute this case. The Court will allow the Plaintiff fourteen (14) days to file an appropriate motion or otherwise take further action with respect to the Defendants. The Plaintiff is advised that failure to take further action within the time required will result in the dismissal of this civil action.

IT IS, THEREFORE, ORDERED that within fourteen (14) days of the entry of this Order, the Plaintiff shall file an appropriate motion or otherwise take further action with respect to each Defendant. **The Plaintiff is advised that failure to take further action within the time required will result in the dismissal of this action.**

IT IS SO ORDERED.

Signed: August 24, 2016



Martin Reidinger
United States District Judge

